

BEFORE THE
SHORELINES HEARINGS BOARD
STATE OF WASHINGTON

IN THE MATTER OF A SHORELINE
SUBSTANTIAL DEVELOPMENT PERMIT
ISSUED BY KING COUNTY TO BAYVIEW
ON THE LAKE CONDOMINIUM
HOMEOWNERS' ASSOCIATION,

EAST LAKE WASHINGTON AUDUBON
SOCIETY,

Appellant,

v.

KING COUNTY and BAYVIEW ON
THE LAKE CONDOMINIUM HOMEOWNERS'
ASSOCIATION,

Respondents.

SHB No. 82-31

FINAL FINDINGS OF FACT,
CONCLUSIONS OF LAW AND
ORDER

This matter, a request for review of a shoreline substantial development permit for construction of a 20-slip moorage facility came on for hearing before the Shorelines Hearings Board, Gayle Rothrock, Chairman, David Akana, Larry Faulk, A. M. O'Meara, Nancy Burnett, and Dennis Derickson, Members, convened at Lacey, Washington, on January 13, 1983. William A. Harrison, Administrative Law Judge,

1 | presided.

2 | Appellant appeared by its president, Leonard Steiner. Respondent
3 | King County did not appear. Respondent Bayview appeared by its
4 | attorney, James S. Fitzgerald. Reporter Bibi Carter recorded the
5 | proceedings.

6 | Witnesses were sworn and testified. Exhibits were examined. From
7 | testimony heard and exhibits examined, the Shorelines Hearings Board
8 | makes these

9 | FINDINGS OF FACT

10 | I

11 | Bayview on the Lake (Bayview) is an existing 40-unit condominium
12 | development in Juanita, King County. It is on the shoreline of
13 | Juanita Bay of Lake Washington.

14 | II

15 | West of the Bayview site and adjacent to it is King County Juanita
16 | Beach Park. The swimming area of the Park is enclosed by a concrete
17 | pile pier which is "U" shaped and extends some 1,330 feet into Juanita
18 | Bay.

19 | III

20 | East of the Bayview site and adjacent to it is the 44-unit Juanita
21 | Shores Condominium which is now under construction and also fronts
22 | along Juanita Bay.¹

24 | 1. Juanita Shores Condominium was the object of an earlier decision
25 | of the Board, Juanita Condo, Homeowners Assoc. v. King County, SHB
26 | Nos. 78-20 and 78-22 (1979). Aff'd King County Superior Court No.
27 | 862511.

IV

Upland of the site are a recently constructed three-story office building, a supermarket, and a fast-food restaurant.

V

Bayview proposes to construct a timber pier, associated finger piers, and breakwater for up to 20 moorage spaces for use by owners of the condominium units. The pier would be 120 feet in length and accommodate recreational boats. The proposed moorage facilities will be extensions on an existing 80-foot guest dock.

VI

Bayview applied to King County for a shoreline substantial development permit on September 18, 1980. A Final Environmental Impact Statement was issued in March, 1982. On July 30, 1982, King County approved a substantial development permit with 22 conditions. These conditions prohibit covered moorage, major repairing of boats, boat launching as well as require a portable sewage pump-out unit and oil containment boom, among other things. Also prohibited by permit condition is any excavation or dredging below the ordinary high water line of the lake.

VII

The proposed moorage would be constructed in an environment designated "urban" by the King County Shoreline Master Program (KCSMP). Moorage is a permitted use in the urban environment. KCSMP Section 409(5), p. 18.

VIII

Juanita Bay is used for boating, swimming, sailing, waterskiing, and fishing. It is also habitat for an estimated daily average of 1,000 waterfowl during the winter.

IX

The proposed moorage is approximately 550 feet west of the Juanita Bay wetlands. Those wetlands are designated "conservancy" by the KCSMP and partially designated as "sensitive area" under King County Sensitive Areas Ordinance No. 4365. The wetlands provide habitat for a variety of shore birds, waterfowl, and small mammals.

X

Appellant has not shown that the proposed moorage will result in any significant reduction in the use of the area by waterfowl or other wildlife.

XI

Appellant has not shown that the proposed moorage will result in any significant disturbance to the Juanita Bay wetlands.

XII

Authorization of this proposal does not imply automatic approval by governmental agencies of other requests for moorage in the area.

XIII

Any Conclusion of Law which should be deemed a Finding of Fact is hereby adopted as such.

From these Findings of Fact come these

FINAL FINDINGS OF FACT,
CONCLUSIONS OF LAW & ORDER
SHB No. 82-31

CONCLUSIONS OF LAW

I

We review the proposed development for consistency with the Shoreline Management Act and the KCSMP which is the applicable shoreline master program. RCW 90.58.140(2)(a). We also review the action of local government for consistency with the State Environmental Policy Act (SEPA), chapter 43.21C RCW.

II

Appellant has not proven that the substantial development permit granted by King County authorizes development which is inconsistent with the Shoreline Management Act, the KCSMP or SEPA.

III

Any Finding of Fact which should be deemed a Conclusion of Law is hereby adopted as such.

From these Conclusions of Law the Board enters this

ORDER

The shoreline substantial development permit granted by King County to Bayview on the Lake Condominium Homeowners' Association is affirmed.

DONE this 3rd day of February, 1983.

SHORELINES HEARINGS BOARD

Gayle Rothrock
GAYLE ROTHROCK, Chairman

David Akana
DAVID AKANA, Lawyer Member

Lawrence J. Faulk
LAWRENCE J. FAULK, Member

A. M. O'Hara
A. M. O'HEARA, Member

Nancy Burnett
NANCY BURNETT, Member

Dennis Derickson
DENNIS DERICKSON, Member

William A. Harrison
WILLIAM A. HARRISON
Administrative Law Judge

FINAL FINDINGS OF FACT,
CONCLUSIONS OF LAW & ORDER
SHB No. 82-31